

FIRST REGULAR SESSION

HOUSE BILL NO. 935

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BLAND MANLOVE.

1742H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 425, RSMo, by adding thereto one new section relating to debt collection, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 425, RSMo, is amended by adding thereto one new section, to be known as section 425.100, to read as follows:

425.100. 1. As used in this section, the following terms mean:

(1) "Debt collection", any act or practice in connection with the collection of consumer debts;

(2) "Debt collector", any person who, in the ordinary course of business, regularly, on behalf of himself, herself, or others, engages in debt collection. "Debt collector" includes any person who composes or sells or offers to compose or sell forms, letters, and other collection media used or intended to be used for debt collection but shall not include an attorney or counselor at law;

(3) "Debtor", a natural person from whom a debt collector seeks to collect a consumer debt that is due and owing or alleged to be due and owing.

2. No debt collector shall collect or attempt to collect a consumer debt by means of judicial proceedings if the debt collector knows or should know that service of process, if essential to jurisdiction over the debtor or the debtor's property, has not been legally effected.

3. With respect to an attempted collection of a consumer debt, it is unlawful for a debt collector, creditor, or attorney to send a communication that simulates legal or judicial process or that gives the appearance of being authorized, issued, or approved by

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 a governmental agency or attorney if it is not so authorized, issued, or approved. Any
19 violation of the provisions of this subsection is a class B misdemeanor.

20 4. A debt collector who violates this section with respect to a debtor shall be liable
21 to that debtor only in an individual action, and the liability shall be limited to any actual
22 damages sustained by the debtor as a result of the violation. However, if a debt collector
23 violates this section willfully and knowingly, the debt collector shall additionally be liable
24 to the debtor in an individual action for a penalty in such amount as the court may allow,
25 which shall be no less than one hundred dollars and no greater than one thousand dollars.

26 5. In a case to enforce any liability under this section, the prevailing party may be
27 entitled to costs of the action. Reasonable attorney's fees, which shall be based on time
28 necessarily expended to enforce the liability, shall be awarded to a prevailing debtor.
29 Reasonable attorney's fees shall be awarded to a prevailing debt collector upon a finding
30 by the court that the debtor's prosecution or defense of the action was not in good faith.

31 6. Any action under this section may only be brought in an appropriate court of
32 competent jurisdiction in an individual capacity within one year from the date of the
33 occurrence of the violation.

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